



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/075,429  
Patent No.: 5,966,962  
Inventor: Murray et al.  
Filing Date: 05/08/1998  
Issue Date: 10/19/1999  
Title: Modular Hydration and  
Freezing Plant for Flexible  
Refrigerant Media

**DECLARATION OF BARRY E. NEGRIN**

1. I am one of the current patent attorneys for ThermaFreeze Products Corporation and Joseph C. Murray. I am submitting this declaration to provide factual support for the Petitions to Revive U.S. Patent Application No. 09/919,747 (“the ‘747 application”).

2. Attached as Exhibit A is a true and correct copy of a printout of the “Home Page” and “Profiles” sections of the website found at the URL [www.patentlaw.com](http://www.patentlaw.com) as it appeared on November 15, 2007.

3. Attached as Exhibit B is a true and correct copy of a printout of the application data and transaction history for US Patent Application No. 09/919,747 from the Patent Application Retrieval System of the USPTO available at <http://portal.uspto.gov/external/portal/pair>. The data and printout of Exhibit B were generated November 12, 2007.

4. On September 18, 2007, I began working on the requisite background research necessary to establish the current status of the ThermaFreeze patent portfolio. Since then, I have spent over 80 hours on ThermaFreeze work. My time included the following

activities: gathering the facts concerning why the maintenance fees were not paid on three of ThermaFreeze's patents in a timely manner and why responses to various Office actions for the '747 application were not responded to in a timely manner, as well as preparing and filing Petitions to Accept Late-Paid Maintenance Fees for U.S. Patent Nos. 5,628,845 ("the '845 patent"), 5,966,962 ("the '962 patent"), and 6,536,189 ("the '189 patent"). During that time, I have had numerous conversations and frequent correspondence with Joseph Murray, the inventor, and Robert "Bob" McGuire, his associate. Attached as Exhibit C hereto is a copy of a Declaration by Robert McGuire filed with the Petition for the '845 patent, which describes some of the fact-checking and searching he did concerning, among other things, the fate of the previous patent attorney C. Emmett Pugh and his files (specifically, his files concerning Joseph Murray's inventions).

5. In the course of the above-referenced research, on September 28, 2007, I informed Mr. Murray that the '747 application was abandoned. I had initially reviewed the application data for this application on PAIR. (See Exhibit B attached hereto.) I also reviewed the transaction history and image file wrapper to see what had transpired during the prosecution of the application. I noticed that the application had been abandoned on three separate occasions. The application was first abandoned on November 5, 2001 because no response was filed to the Notice to File Missing Parts. A Petition to Revive was filed by Mr. Pugh on November 4, 2002 (almost a year later). The application was abandoned the second time for failure to respond to a Restriction Requirement mailed July 14, 2003. In response to the second Notice of Abandonment mailed March 2, 2004,

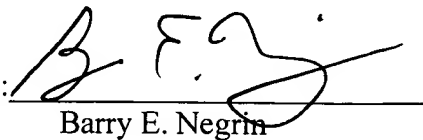
**Declaration of Barry E. Negrin  
In Support of Petitions to Revive  
U.S. Patent Appl'n No. 09/919,747**

Mr. Pugh filed a second Petition to Revive on August 13, 2004. Thereafter, a first Office Action was mailed on February 7, 2005. Mr. Pugh appears to have never responded to this Office Action, and the application went abandoned a third time as a result. The requisite substantive response to the Office Action for this application is being submitted herewith.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent(s) issued thereon.

Executed in New York, NY

Date: December 18, 2007

By:   
Barry E. Negrin

**EXHIBIT A**

# PUGH & AMBROSE, P.C.

Patent, Trademark, Copyright & Technology Counselors

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The Firm Sadly Announces the Passing of John J. Ambrose, Jr., the Firm's Founder, on June 25, 2004. His Great Intellect and Legal Talent, Along with His "Can Do," Supportive, Spiritual Attitudes, will be Greatly Missed. AMDG.

Pugh & Ambrose, P.C., is a professional corporation formed under the District of Columbia (U.S.A.) Professional Corporation Act. It currently maintains offices in San Diego, California, and in New England (Suffield, CT). The firm enjoys an "av" rating (highest rating available) from Martindale-Hubbell, the National Lawyer rating organization. (CEP)

## ATTORNEYS

- Senior Patent Attorney & Litigation Leader
- Senior Technology Attorney & Litigation Leader
- Of Counsel Patent Attorneys

### Senior Patent Attorney & Litigation Leader

**C. EMMETT PUGH (REGISTERED PATENT ATTORNEY)**, born New Orleans, Louisiana; admitted to bar, Louisiana, Court of Appeals for the Federal Circuit (replaced Court of Customs & Patent Appeals) and U.S. Tax Court; District of Columbia; admitted to practice before U.S. Patent & Trademark Office and U.S. Supreme Court. Preparatory education, Loyola University of New Orleans (B.S. - Physics, with honors); legal education, Georgetown University (LLB/J.D.); Patent Examiner, U.S. Patent Office (1.5 yrs). Associated with patent litigation firms, Washington, D.C. (2.5 yrs.). Private specialized patent practice in Louisiana & Connecticut (25+ yrs. experience). Personally rated "av" - highest rating possible by Martindale-Hubbell, Named "Lawyer Advocate of the Year (LA, 1981)" by U.S. Small Business Administration; named Founding Chairman, Louisiana Small Business Equity Corporation by Governor David C. Treen to promote the formation of venture capital in the State of Louisiana (1981-1984); Adjunct Professor of Law, Loyola University [patent, trademark and copyright law (1986)]. Honorary fraternities: Delta Theta Phi, Sigma Pi Sigma; Alpha Sigma Nu (Jesuits' Phi Beta Kappa); Blue Key. Member, Louisiana State Bar Association, District of Columbia Bar Association, American Bar Association, and founding President, American Society of Innovators in Technology, Inc. Has served as trial attorney in federal courts of California, New York, Illinois, Texas, Louisiana, Mississippi, Alabama, Missouri, Rhode Island, Washington, D.C., etc., in various patent, trademark and copyright causes and other commercial litigation (RICO, antitrust, contract, real estate lease, etc.) and successfully appeared before the U.S. Supreme Court in a patent case.

*Mr. Pugh is a member of the U.S. Patent Bar, and the District of Columbia and the Louisiana Bars only.*

### Senior Technology Attorney & Litigation Leader

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pages designed



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**EXHIBIT B**



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09/919,747

Insulating packaging material and related packaging system



### Bibliographic Data

Application Number:	09/919,747	Customer Number:	-
Filing or 371 (c) Date:	08-01-2001	Status:	Abandoned -- Failure to Respond to an Office Action
Application Type:	Utility	Status Date:	09-29-2005
Examiner Name:	BUI, LUAN KIM	Location:	ELECTRONIC
Group Art Unit:	3728	Location Date:	-
Confirmation Number:	6570	Earliest Publication No:	US 2003-0087051 A1
Attorney Docket Number:	THERM2A4-CIP	Earliest Publication Date:	05-08-2003
Class / Subclass:	206/594	Patent Number:	-
First Named Inventor:	Joseph Murray, Mobile, AL	Issue Date of Patent:	-

Title of Invention: Insulating packaging material and related packaging system

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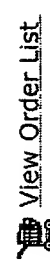
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## Transaction History

## Transaction Description

Date	Transaction Description
09-30-2005	Mail Abandonment for Failure to Respond to Office Action
09-29-2005	Abandonment for Failure to Respond to Office Action
02-07-2005	Mail Non-Final Rejection
02-07-2005	Non-Final Rejection
01-25-2005	Date Forwarded to Examiner
08-13-2004	Response to Election / Restriction Filed
01-25-2005	Mail Notice of Rescinded Abandonment
01-25-2005	Notice of Rescinded Abandonment in TCs
11-02-2004	Mail-Petition to Revive Application - Granted
08-13-2004	Petition Entered
08-16-2004	Workflow incoming petition IFW
08-13-2004	Workflow incoming amendment IFW
03-02-2004	Mail Abandonment for Failure to Respond to Office Action
03-01-2004	Abandonment for Failure to Respond to Office Action
07-14-2003	Mail Restriction Requirement
07-11-2003	Requirement for Restriction / Election
08-01-2001	Information Disclosure Statement (IDS) Filed
08-01-2001	Information Disclosure Statement (IDS) Filed
05-22-2003	Case Docketed to Examiner in GAU
01-13-2003	Transfer Inquiry to GAU

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01-06-2003	Application Dispatched from OIPE
12-19-2002	Application Is Now Complete
12-16-2002	Additional Application Filing Fees
12-16-2002	Applicant has submitted new drawings to correct Corrected Papers problems
09-03-2002	Withdraw Pre-Exam Abandon
12-03-2002	Mail-Petition to Revive Application - Granted
11-18-2002	Petition Entered
11-05-2001	Abandonment -- During Preexam Processing
09-05-2001	Correspondence Address Change
08-10-2001	IFW Scan & PACR Auto Security Review
08-01-2001	Initial Exam Team nn

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